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C O N F I D E N T I A L STATE 124027

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TAGS: [MARR](#) [MCAP](#) [PINS](#)
SUBJECT: REQUEST FOR YEMENI BLANKET ASSURANCES

REF: 08STATE105349

Classified By: PM/RSAT: David Bame

11. (SBU) This is a message for immediate action. Please see para 3.

12. (C) In response to President Saleh,s recent urgent requests to the President, Secretary Rice, and other senior U.S. officials, the USG is seeking to deliver expeditiously twenty-five (25) U.S.-origin M113A1 Armored Personnel Carriers (APCs) from Jordan to Yemen via a Third Party Transfer (TPT). The USG also has an outstanding April 2008 TPT request from Jordan to transfer fifty (50) 106mm Recoilless Rifles to be used for security, regional stability, and counter-terrorism operations within Yemen,s borders. The USG has taken great effort, in particular, to facilitate the transfer of APCs. However, the Department cannot/cannot consider approving these requests until the Government of the Republic of Yemen (ROYG) provides appropriate end-use, retransfer, and security assurances in accordance with Section 3 of the Arms Export Control Act, as amended. The Memorandum of Agreement signed by both the USG and ROYG in June 2008 noted this requirement.

13. (C) Action Request: Post is requested to approach appropriate host government officials at the earliest possible opportunity to obtain the requisite end-use, retransfer, and security assurances from the ROYG. Post should use the standard required language provided in para 4 and para 5 for the USG note and ROYG response that will constitute blanket end-use, retransfer, and security assurances. The USG note should be provided in English only. If the ROYG is not prepared to provide blanket assurances, Post should provide a negative response to the Department as well as information on pursuing separate assurances for each of the two active requests. The Department requests Post,s response NLT November 26, 2008.

14. (SBU) Begin text of proposed USG note.

The Embassy of the United State of America presents compliments to the Ministry of Foreign Affairs of the Government of the Republic of Yemen and has the honor to refer to the provisions of United States law that require the Government of the United States of America, prior to consenting to a government,s request to retransfer U.S. sold or granted defense articles, related training, or other defense services (including technical data) to the Government of the Republic of Yemen, to obtain from Government of the Republic of Yemen end-use, retransfer, and security assurances.

In order to expedite certain retransfers by having standing end-use, retransfer, and security assurances applicable to retransfers of U.S. sold or granted defense articles, related training, or other defense services, the Government of the United States of America proposes that the Government of the Republic of Yemen agree that:

(A) The Government of the Republic of Yemen shall not, unless the prior written consent of the Government of the United States of America has first been obtained:

(I) Permit any use by anyone not an officer, employee, or agent of the Government of the Republic of Yemen of such defense articles, relating training, or other defense services;

(II) Transfer, or permit any officer, employee, or agent of the Government of the Republic of Yemen to transfer, such defense articles, related training, or other defense service by gift, sale, or otherwise; or

(III) Use, or permit the use of, such defense articles, related training, or other defense service for purposes other than those for which provided.

(B) The Government of the Republic of Yemen will maintain the security of such defense articles, related training, or other defense service and will provide substantially the same degree of security protection afforded to such defense articles, related training, or other defense services by the Government of the United States of America.

The Ministry,s reply stating that the foregoing is acceptable to the Government of the Republic of Yemen shall together with this note constitute an Agreement between the two governments to be effective upon the date of the Ministry,s reply.

End text of proposed USG note.

15. (SBU) The response from the Ministry of Foreign Affairs (MFA) should state that the proposals set forth in the USG note are acceptable and affirm that the exchange constitutes an agreement between the two governments entering into force on the date of the response. MFA,s note of acceptance would include language along the following lines:

Begin text of proposed ROYG note.

(Complimentary opening) and acknowledges receipt of the Embassy,s Note No. (insert number), dated (insert date), which reads as follows: (quote U.S. note in its entirety). The Ministry of Foreign Affairs of the Government of the Republic of Yemen has the honor to confirm that the proposals set forth in the Embassy,s note are acceptable to the Government of the Republic of Yemen and that the Embassy,s note and this note in reply shall constitute an Agreement between the two governments which shall enter into force on this date.

End text of proposed ROYG note.

BACKGROUND

16. (SBU) End-use, retransfer, and security assurances are normally provided by the MFA and considered binding on the entire government. If assurances are provided by another Department or Ministry (e.g., MOD), the text immediately following the salutation and immediately preceding the actual assurances text must include "For and on behalf of the Government of the Republic of Yemen". It is the responsibility of the country team, as stated in the Security Assistance Management Manual (SAMM), section 60004, para 5, "to determine, based on review of the domestic legal system, whether assurances issued by a Ministry other than the MFA are considered binding".

17. (SBU) If the assurances presented differ from the language provided above in either para 4 or para 5, please provide the PM/RSAT POC listed in para 9 with an explanation of why the requisite language requirements could not be met and request further instructions. If the Yemeni response is written in the country,s language, Post must provide the Department

with a certified translation.

¶8. (SBU) Blanket assurances apply only to the recipient of government-to-government TPTs of U.S. sold or granted defense articles, related training, or other defense services (including technical data). Please note that the submission of blanket assurances does not/constitute blanket USG consent of proposed retransfers. It will only preclude the ROYG from having to provide individual assurances for the abovementioned requests and any government-to-government requests in the future. A foreign government transferring U.S. sold or granted defense articles, related training, or other defense services to a country with blanket assurances must still submit a request to the Department and receive USG approval prior to any transfers. These assurances will not apply to defense articles, related training, or other defense services (including technical data) exported from the United States via commercial sales.

¶9. (SBU) Department requests Embassy Sanaa fax or e-mail a scanned copy of both notes as soon as possible to the PM/RSAT POC: Berneta Lee, desk: 202-736-4036, fax: 202-647-9779, email: leebj@state.gov. Please pouch the original MFA note, together with a certified copy of the Embassy's note to PM/RSAT (ATTN: Berneta Lee, Room 3331) via registered pouch. Department appreciates Post's assistance with this issue.
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